



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/482,679	01/14/2000	Uwe Heitmann	31653-152135	7334

7590

08/06/2002

Robert Kinberg
Venable
P.O. Box 34385
Washington, DC 20043-9998

EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
----------	--------------

1731

DATE MAILED: 08/06/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/482,679

Applicant(s)

HEITMANN, UWE

Examiner

Carlos Lopez

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION]

Continued Prosecution Application

The request filed on 5/10/02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09482679 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, "the concave sliding surface" lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orihara et al (US 5,967,146) in view of Stephan et al (US 5,941,520). Orihara discloses a shredded tobacco supplying apparatus for a cigarette-manufacturing

Art Unit: 1731

machine (Columns 7-9). The tobacco supplying apparatus comprising of a concave-curved guide track (38); guide track having a generatrix based on a uniform generating curve sections 38a and interrupted by a plurality of nozzles (40,42,44) (Fig. 3). The guide track (38) comprises of track segments having sections wherein the borders of the track segments provide an upstream and down stream nozzle walls for which air jets (43) flow through. Orihara is silent disclosing the down stream wall that forms the nozzles as being steady convex curvature. However, Stephan et al, disclosing nozzle 4 providing a conveying current, teaches of having a convex curvature as shown in figure 3 at the down stream wall of a nozzle 4 in order to reduce the negative pressure or turbulence in the conveying air current created by the nozzle 4 (Column 3, lines 23-32). Hence, Stephan et al reduces turbulence created by the nozzle 4 by providing a convex curvature at the down stream wall forming nozzle 4 which would provide a more uniform conveying current by reducing vacuum zones or negative pressures. Orihara discloses that having a uniform layer of tobacco fibers is necessary to maintain constant filling density (Column 12, lines 30-44). A conveying current having turbulence created by negative pressures/vacuum zones would not effectively provide a uniform tobacco layer needed to provide a constant filling density. Thus at the time the invention was made, it would have been obvious to a person ordinary skill in the art to form the down stream wall of Orihara's nozzles in a convex curvature to reduce vacuum zones and negative pressures as taught by Stephan et al in order to provide a more uniform conveying current resulting in less variations of the filling density of the cigarettes being made.

Allowable Subject Matter

Claims 2 and 4-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The cited prior art does not disclose or reasonably suggest a continuous nozzle extending the width of the guide track as recited in claims 2, 4-7, and 10 and having a convex curvature down stream wall that forms the air supplying nozzles. The closest prior art Orihara et al (US 5,967,146), provides discontinuous nozzles over the width of the guide track.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on 8am - 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

Application/Control Number: 09/482,679
Art Unit: 1731

Page 5

C.L
July 31, 2002


STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700